(2011) 03 MAD CK 0489

In the Madras High Court

Case No : Writ Petition No''s. 4259, 4260 and 4261 of 2011 and M.P. No''s. 1, 1 and 1 of 2011

Sri Venkata Saibaba Oil Company — APPELLANT

Vs

The Assistant Commissioner (CT) — RESPONDENT

Date of Decision : 15-03-2011

Acts Referred:
Tamil Nadu Value Added Tax Act, 2006 — Section 12(1), 22(2)

Citation : (2011) 03 MAD CK 0489

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : P. Rajkumar, for the Appellant; K. Radhakrishnan, Government Advocate (Taxes), for the Respondent

Judgement

M. Jaichandren, J.—The main contention of the learned Counsel appearing on behalf of the Petitioner is that the impugned orders, dated 24.01.2011, had been passed by the Respondent, without passing the original assessment order, u/s 22(2) of the Tamil Nadu Value Added Tax Act, 2006, based on the returns filed by the Petitioner, for the assessment years concerned. The learned Counsel appearing on behalf of the Petitioner had also submitted that it would not be open to the Respondent to pass the impugned orders, in the absence of the assessment order having been passed, u/s 22(2) of the Act, as held by this Court, in W.P. Nos. 952 to 954, 10781 to 10787, 15233 and 15234 and 23461 to 23475 of 2008.

2. The learned Counsel appearing on behalf of the Respondent had submitted that the impugned order had been passed, u/s 12(1)(C) of the Tamil Nadu Value Added Tax, 2006, and not u/s 22(2), based on the returns filed by the Petitioner.

3. In view of the submissions made by the learned Counsel appearing on behalf of the Petitioner, this Court finds it appropriate to set aside the impugned orders, dated 24.01.2011, passed by the Respondent, as it had been passed, without an order having been passed, u/s 22(2) of the Tamil Nadu Value Added Tax Act,

2006. In view of the earlier orders passed by this Court, such a course is not open to the Respondent. However, it is made clear that it would be open to the Respondent to pass original assessment orders, u/s 22(2) of the Tamil Nadu Value Added Tax Act, 2006, if he finds it fit to do so.

These Writ Petitions are ordered accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

